

REMARKS

This application contains claims 1-47, the status of which is as follows:

- (a) Claims 1-27, and 39 have been canceled without prejudice.
- (b) Claims 29, 33, 35, 36, and 47 are previously presented.
- (c) Claims 28, 30-32, 34, 37, 38, and 40-46 have been currently amended.

No new matter has been added. Reconsideration is respectfully requested.

***Claim rejections under 35 U.S.C. 102***

Claims 1, 38, 39, 45, and 46 were rejected under 35 U.S.C. 102(e) as being anticipated by US 2004/0138710 to Shemer et al. Without commenting on the rejection, the Applicant cancels claims 1 and 39 without prejudice, and amends claims 38, 45, and 46 to depend on claims already found allowable, in order to achieve speedy issuance of a patent on claims found allowable. Since claims 38, 45, and 46 are of narrower scope than claims already found allowable, the Applicant respectfully submits that these claims are in condition for allowance.

***Claim rejections under 35 U.S.C. 103***

Claim 47 was rejected under 35 USC 103(a) as being obvious over Shemer et al. in view of US 4,884,576 to Alt. Without commenting on the rejection, the Applicant cancels claim 47 without prejudice, in order to achieve speedy issuance of a patent on claims found allowable.

***Amendments to the claims***

The Applicant thanks the Examiner for indicating that claims 28-37 and 40-44 recite allowable subject matter, and that these claims are only objected to for being dependent on rejected claims. The Applicant has currently amended method claims 28

and 34, which had been dependent on claim 1, to now be independent claims including the limitations of rejected claim 1. Claims 28 and 34 are therefore submitted to be in condition for allowance. Claim 29, which is dependent on claim 28, now no longer depends (indirectly) from a rejected base claim, and is in condition for allowance. Claims 32, 37, and 38 have been amended to be dependent on claim 34, and are therefore in condition for allowance. Claim 33, which is dependent on claim 32, is similarly now in condition for allowance. Claims 35 and 36, which are dependent on claim 34, are submitted to be in condition for allowance.

The Applicant has currently amended apparatus claims 40, 42, and 44, which had been dependent on claim 39, to now be independent claims including the limitations of rejected claim 39. Claims 40, 42, and 44 are therefore respectfully submitted to be in condition for allowance. Claim 30, 45, and 46, which had been dependent on claim 39, have been amended to be dependent on claim 42, and are therefore in condition for allowance. Claim 31, dependent on claim 30; claim 47, dependent on claim 46; claim 41, dependent on claim 40; and claim 43, dependent on claim 42, are similarly in condition for allowance.

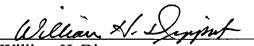
A number of the claims have been amended in minor ways to enhance clarity or to more positively recite the invention. These amendments include addition of the language "configured to...," to express the function of claimed apparatus, and addition of the word "ETC" before "signals," to enhance clarity. Independent apparatus claims 40, 42, and 44 additionally recite "at least one sensor, configured to be coupled to the body, which sensor is...," whereas the underlined word "sensor" did not appear in claim 39. These claims have also been amended to add the words "of the patient" in the recitation of "one or more stimulation electrodes, which are configured to be placed in contact with the heart of the patient..." whereas the underlined words did not appear in claim 39. Claims 40, 42, and 44 have additionally been amended to read "...which is configured, responsive

to the measure, to enhance contractility of the heart muscle by applying excitable tissue control (ETC) signals to the stimulation electrodes," where claim 39 had more passively recited "...which applies an excitable tissue control (ETC) signals to the stimulation electrodes so as to enhance contractility of the heart muscle responsive to the measure." Claim 43 has been amended to specifically recite that "...the control unit is configured to adapt the ETC signals....," where the original claim language had read "...the control unit adapts the stimulation..."

The Applicant believes the amendments and remarks presented hereinabove to be fully responsive to all of the grounds of rejection raised by the Examiner. In view of these amendments and remarks, the Applicant respectfully submits that all of the claims in the present application are now in order for allowance. Notice to this effect is respectfully requested.

Respectfully submitted,

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